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**PHILLIPS PETROLEUM COMPANY**  
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November 22, 1991

RSPA-98-4868-28

Dockets Unit Room 8417  
**Research** and Special Programs Administration  
U. S. Department of Transportation  
400 7th Street, SW  
Washington, DC 20590

91 NOV 23 AM 10:50

RECEIVED  
OPS-1

Re: Gas Gathering Line Definition,  
Docket No. PS-122

Ladies and Gentlemen:

Enclosed for filing are the original and three (3) copies of the Comments of Phillips Petroleum Company and Phillips 66 Natural Gas Company on the DOT's proposed gas gathering line definition revision. Please indicate the time of filing by stamping the enclosed additional copies of this cover letter to me in the enclosed self-addressed stamped envelope.

Sincerely yours,

**Larry Pain**  
Attorney for  
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Phillips 66 Natural Gas Company  
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LP/jk  
Enclosures

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
RESEARCH AND SPECIAL **PROGRAMS** ADMINISTRATION

Gas Gathering Line Definition        )     Docket No. PS-122

INITIAL **COMMENTS** OF  
PHILLIPS **PETROLEUM COMPANY** AND  
PHILLIPS 66 NATURAL **GAS COMPANY**

Phillips Petroleum Company ("PPCO") and Phillips 66 Natural Gas Company ("P66NGC"), collectively ("Phillips") respectfully submit these comments in response to the Notice of Proposed Rulemaking issued in the captioned case on September 19, 1991, 56 Fed. Reg. 48505.

I.

**COMMUNICATIONS**

Communications regarding this proceeding should be sent to:

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## II.

### PHILLIPS' GAS GATHERING ACTIVITIES

Both PPCO and P66NGC are Delaware corporations with their principal places of business at Bartlesville, Oklahoma. P66NGC is a wholly owned subsidiary of PPCO. Both companies are extensively engaged in natural gas gathering operations. Together they operate approximately 24,000 miles of gas gathering lines. PPCO is a large producer of natural gas in the United States and engages in gas gathering activities in conjunction with its gas producing operations. P66NGC assumed PPCO's significant gas gathering, purchasing, processing and resale business as of January 1, 1986, and owns the great bulk of Phillips' 29 gas processing plants and about 22,000 miles of gas gathering lines in the United States. P66NGC typically purchases gas at or near the wellhead at low pressures, gathers the gas to a central point where gas processing for removal of natural gas liquids occurs, and resells the remaining residue gas to various customers. Both PPCO and P66NGC are classified as independent producers under regulations of the Federal Energy Regulatory Commission under the Natural Gas Act of 1938, and do not directly engage in gas transmission activities. P66NGC is the largest producer of natural gas liquids in the United States.

### III.

#### THE PROPOSED RULE SHOULD BE ADOPTED.

The Notice of Proposed Rulemaking issued by the Department of Transportation ("DOT") in this case thoroughly outlines the circularity and ambiguity of its current gas gathering definition under the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. §1801, et seq. ("NGPSA") and the DOT's detailed consideration of alternative gas gathering definition formulations over the last several years.

Phillips congratulates the DOT on the thoroughness of its review and its obvious desire to remain faithful to the intent of Congress in formulating a gas gathering definition similar to that which would have been contemplated by the members of Congress in adopting the NGPSA. The legislative history of the NGPSA reveals that Congress was contemplating reliance upon interpretations of the Federal Power Commission and later the Federal Energy Regulatory Commission under the Natural Gas Act and its construction of the gathering exemption from jurisdiction under that Act, 15 U.S.C. §717(b).

The DOT's proposed definition generally remains faithful to the approaches used historically by the DOT in its own enforcement of the NGPSA and to the broad criteria for the gas gathering exemption established by the FPC and FERC under the Natural Gas Act. These include the traditional "behind the plant" test that regards as gathering all facilities behind an

independent producer% field area gas processing plant, the Ventral point in the field test" which is more frequently applied in situations where there is no gas processing plant, and the "primary function" test. The "primary function" test initially looked to the character of the company involved; in close cases, the FPC and the FERC were more inclined to grant gathering status when an independent producer was involved. Later, the "primary function" test was broadened by the FERC to include the other major tests. In Farmland Industries Inc., 23 FERC 761,063 (1983), the FERC stated that it would apply the following primary considerations in gathering-transmission classification cases: (1) pipe diameter in length, (2) location of compressors and processing plants, (3) extension of the facilities beyond the central point in the field, (4) well locations in relation to the facilities, and (5) the overall geographical configuration of the system.

In 1990, the FERC revised its Farmland criteria somewhat by announcing its willingness to consider the changing technical and geographic nature of exploration and production, particularly including advances in technology that enable more remote offshore drilling, which in turn necessitates relatively long connecting pipelines in deeper offshore waters. In Amerada Hess Corp.. et al., Docket No. CP89-692-001, et al., 52 FERC ¶61,268 (September 17, 1990), the FERC in a single Order dealt with some twenty-one (21) gas pipeline systems, finding all but one to be exempt gas gathering facilities. The Amerada Hess

Order was issued in response to appellate court decisions in EP Operating Co. v. FERC, 856 F.2d 46 (5th Cir. 1989) and Northwest Pipeline Corp. v. FERC, 905 F.2d 1403 (10th Cir. 1990), both of which reversed findings that particular pipeline systems were transmission systems. The DOT's proposed approach is generally consistent with these determinations.

The DOT should recognize, however, that the gathering-transmission distinction is occasionally difficult to make, and always depends upon individual facts and circumstances. In adopting the revised rule, the DOT should acknowledge the continuing need for case by case resolutions of the status of particular pipelines. The DOT should remain willing to grant waivers of pipeline safety jurisdiction or to classify as gas gathering lines those that meet the general criteria for gas gathering established in the case law, where the rural location and character of the lines indicate that safety regulation would be uneconomical or inappropriate.

#### IV.

#### **THE "BEHIND THE PLANT" EXEMPTION SHOULD BE REVISED AND CLARIFIED.**

Subparagraph (1) of the proposed gas gathering line definition establishes an applicable end point for a gas gathering line of:

- (1) The inlet of the first natural gas processing plant used to remove liquified petroleum gases or other natural gas liquids. (emphasis added)

This subparagraph should be revised by deleting "first" and substituting "field", so that reference would be made to the inlet of the field natural gas processing plant used to remove liquified petroleum gases or natural gas liquids. In discussing this aspect of the definition at 56 Fed.Reg. 48505 (Col. 1), the DOT draws a distinction between field gas processing facilities which are frequently operated by independent producers and "straddle plants" which are located on gas transmission lines and usually operated by pipeline companies. Phillips agrees that all pipelines upstream of a straddle plant should not be exempt from safety regulation; but a rigid rule imposing a transmission classification on all lines downstream of any processing site is overly broad and rigid.

In a number of situations, P66NGC purchases or otherwise receives gas from the outlet of a field processing facility owned or operated by others. Frequently, but not always, these facilities are relatively small, skid-mounted, portable facilities that include some refrigeration equipment capable of removing heavier natural gas liquids components. Such facilities cannot fully extract the natural gas liquids contained in the raw gas stream. P66NGC finds it economical to further gather and process gas which has been processed in such facilities in order to remove ethane and propane and any heavier natural gas liquids components which may remain in the stream. Yet these field area facilities are often in remote locations: P66NGC's gas gathering system retains a network-like configuration and

connects numerous wells beyond the outlet of such processing facilities. A connection to such a field processing facility does not indicate that the raw gas gathering system receiving some semi-processed gas is a transmission system.

The proposed rule as drafted might condemn large portions of some of P66NGC's gathering systems to transmission classification if rigidly applied. Such action, however, would violate the intent of Congress in the NGPSA to exempt rural gas gathering facilities. The DOT should revise subparagraph (1) of the definition as necessary to remove the "first processing plant" limitation, which has potentially rigid and unwarranted applications. Our suggested substitution of "field" for "first" would make the end point a reference to all field area processing facilities, but not including "straddle" plants.

Phillips construes the proposed definition of "production facility" in its reference to piping or associated equipment used in the production of gas and in field compression to exclude from pipeline safety jurisdiction those small, generally low pressure pipelines which are frequently laid in the same easements as gas gathering lines and which return residue gas to oil and gas producing leases for lease use or to gas gathering system field compressor sites where the gas is used as compressor fuel.



## V.

ANY RECLASSIFICATIONS OF PIPELINES  
SHOULD REQUIRE **COMPLIANCE** WITH  
ONLY **MAINTENANCE, OPERATING** AND  
REPORTING REQUIREMENTS.

The DOT assesses that relatively few pipeline reclassifications from gathering to transmission or distribution line status will result from the proposed definition. Phillips concurs with and supports that result as being with consistent with congressional intent. In those situations where a reclassification may prove necessary, however, DOT should acknowledge that the pipelines in question have already been designed and constructed, and that the portions of its regulations in 49 C.F.R. Part 192 dealing with design, construction, and testing cannot feasibly apply: uneconomical redesign, reconstruction and testing of the pipelines in question should be avoided by a waiver of any applicable requirements. The DOT should clarify that as to reclassified lines, 49 C.F.R. Part 192 B through G and J will not apply. Only the operation, maintenance, and reporting regulations can feasibly apply to existing reclassified lines. This approach is similar to that used in order "grandfathering" exemptions to pipeline safety regulation.

## VI.


### CONCLUSION

Phillips appreciates this opportunity to comment upon

the DOT's substantially improved gas gathering definition proposal. Phillips urges that the proposed rule be adopted with the changes and clarifications discussed above.

Respectfully submitted,

PHILLIPS PETROLEUM COMPANY  
PHILLIPS 66 NATURAL GAS COMPANY

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